Supreme Court, U.S.
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No. 00-1198

In The

Supreme Court of the United States

BENJAMIN J. CAYETANO and EARL I. ANZAI,

Petitioners,

v.

CHEVRON USA, INC.,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

REPLY MEMORANDUM OF PETITIONERS

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REPLY MEMORANDUM OF PETITIONERS

A recent decision deepens the conflict over the issues raised in the petition. The United States Court of Appeals for the Fourth Circuit rejected a facial takings claim in *Greenspring Racquet Club, Inc. v. Baltimore City*, 232 F.3d 887, 2000 WL 1624496 (Oct. 31, 2000), *petition for cert. filed*, No. 00-1227, Jan. 29, 2001. In sustaining the District Court's refusal to conduct a trial to determine whether, in fact, a zoning restriction would achieve its purpose, the Court stated: "When statements by local lawmakers set out legitimate reasons for imposing . . . restrictions on property . . . there can be no claim in federal court that the law fails to substantially advance a legitimate purpose." *Id.* at **5. Thus, the Fourth Circuit has joined the highest courts of California and New York in refusing to impose the higher level of scrutiny ordered by the Ninth Circuit in this case. Indeed, the Fourth Circuit found unlawful just the factual inquiry ordered by the Ninth Circuit here.

Respondent's opposition does not seriously dispute deep and wide conflict with the Ninth Circuit's decision nor confusion in the lower courts about whether and to what extent the Takings Clause requires courts to assess the wisdom of legislation. The importance and timeliness of these issues is evident and is confirmed by the three briefs *amicus curiae* filed on behalf of nineteen Attorneys General, forty-six California cities, and five state and

local government associations. Petitioners renew their request that the Court grant their petition for certiorari.

Respectfully submitted,

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